

59-14-605 Appointment of agent for service of process.

- (1)
 - (a) A nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory required by Section 59-14-603, appoint and continually engage without interruption the services of an agent in this state.
 - (b) The agent appointed under Subsection (1)(a) shall:
 - (i) act as agent for the service of process for any action or proceeding against the nonresident or foreign nonparticipating manufacturer concerning or arising out of the enforcement of this part or the Model Tobacco Settlement Act; and
 - (ii) may be served in any manner authorized by law.
 - (c) Service under this Subsection (1) shall constitute legal and valid service of process on the nonparticipating manufacturer.
- (2) The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent appointed pursuant to this section to the attorney general and to the commission as established by administrative rule in accordance with Section 59-14-607.
- (3)
 - (a) If the nonparticipating manufacturer terminates the authority of an agent appointed under the provisions of this section, the nonparticipating manufacturer shall:
 - (i) provide notice to the attorney general and to the commission 30 calendar days prior to termination of the authority of an agent; and
 - (ii) provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of the existing agent.
 - (b) If an agent terminates its agency appointment with the nonparticipating manufacturer, the nonparticipating manufacturer shall notify the attorney general and the commission of the termination within five calendar days of the manufacturer's knowledge of the termination, and shall include proof to the commission of the appointment of a new agent as required by commission rule adopted under Section 59-14-607.
- (4)
 - (a) If a nonparticipating manufacturer whose cigarettes are sold in this state does not appoint an agent as required by this section, the Department of Commerce shall serve as the agent for service of process.
 - (b) A nonparticipating manufacturer who does not appoint an agent as required by this section, and who has the Department of Commerce appointed as the agent for service of process under the provision of Subsection (4)(a), does not satisfy the condition precedent required by Subsection (1)(a), and may not be included in the directory created in Section 59-14-603.

Enacted by Chapter 204, 2005 General Session